

U.S. Patent Application Serial No. 09/725,314
Amendment filed October 8, 2004
Reply to OA dated July 28, 2004

REMARKS

Claims 1 and 5 have been amended in order to more particularly point out, and distinctly claim the subject matter to which the applicants regard as their invention. The applicants respectfully submit that no new matter has been added. It is believed that this Amendment is fully responsive to the Office Action dated July 28, 2004.

Claims 1, 3 - 6 and 16 are currently pending in this patent application, claims 1 and 5 being independent claims, and claims 2 and 7 - 15 having been canceled.

Claims 1, 3 - 6 and 16 stand rejected under 35 USC §112, second paragraph, for the specific reasons set forth in item 2, pages 2 and 3 of the outstanding Action. The applicants respectfully request reconsideration of this rejection.

It is clear from the applicants' specification that the applicants' warped bucket tooth 6 has a pre-set warpage prior to being fastened to the lip 5 by fastening bolts 7, as shown in the applicants' Figure 5. When the warped bucket tooth 6 is fastened to the lip 5, the bucket tooth's 6 "warped state" changes to a "straight state" due to "elastic deformation," resulting in the consequences, as explained in lines 9 - 16, page 15 of the applicants' specification.

Accordingly, in order to correct certain informalities and to provide a more definite claim language, including claim language that avoids the Examiner's alleged inconsistencies between the claim language and the specification, the applicants have amended independent claim 1 so as to more particularly recite that:

- 1) the claimed bucket tooth has a "pre-set warp;"
- 2) the pre-set warp of the bucket tooth provides a space between the bucket lip and bucket tooth before fastening therewith; and
- 3) the axial force fluctuation absorbing means provides resilient return force during the fluctuations in axial force by the forcible straightening of the pre-set warp of the tooth because the one face side is bolted in a state where the one face side is positioned on the bucket lip side.

Moreover, in response to the Examiner's current position on independent claim 5 (as set forth in lines 4 - 7, page 3 of the outstanding Action), the applicants have amended claim 5 so as to more particularly recite that:

- 1) the bucket tooth has a pre-set warp; and
- 2) as in claim 1, the axial force fluctuation absorbing means provides resilient return force during the fluctuations in axial force by the forcible straightening of the pre-set warp of the tooth because the one face side is bolted in a state where the one face side is positioned on the bucket lip side.

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In view of the above, the withdrawal of the outstanding indefiniteness rejection under 35 USC §112, second paragraph, is in order, and is therefore respectfully solicited.

As to the merits of this case, the Examiner maintains the following rejections:

(1) claim 1 stands rejected under 35 USC §102(b) as being anticipated by the British Patent Publication No. 2,176,520;

(2) claim 3 stands rejected under 35 USC §103(a) based on the British Patent Publication; and

(3) claims 4 - 6 and 16 stand rejected under 35 USC §103(a) based on the British Patent Publication in view of Rose.

The applicants respectfully request reconsideration of these rejections.

As submitted on pages 8 through 10 of the Amendment filed on April 22, 2004, the British Patent Publication discloses a tooth portion 2 mounted on a front area of an assembly plate 1 on retaining blocks 3. That is, the tooth 2 in the British Patent Publication has a significant recess for accommodating therein the retaining blocks 3. Because of the retaining blocks in the device disclosed in the British Patent Publications, there is no amount s of warping in such device (as defined by an equation described in, e.g., lines 18 and 19, page 13 of the applicants' specification.)

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Furthermore, in the device disclosed in the British Patent Publication, there is no space, as defined between the applicants' lip 5 and the applicants' bucket tooth 6, as illustrated in the applicants' Figure 3.

In order to highlight the applicants' distinguishable claimed structural arrangements over the teachings of the British Patent Publication, the applicants have amended independent claim 1 so as to more particularly recite that the claimed bucket tooth has a "pre-set warp;" and the pre-set warp of the bucket tooth provides a space between the bucket lip and bucket tooth before fastening therewith. Also, claim 1 now further recites that the claimed axial force fluctuation absorbing means provides resilient return force during the fluctuations in axial force by the forcible straightening of the pre-set warp of the tooth because the one face side is bolted in a state where the one face side is positioned on the bucket lip side. Such claimed structural arrangements are not found in the teachings of the British Patent Publication.

Moreover, with respect to the embodiments of the tooth 2 of the British Patent Publication, the back surface thereof facing the assembly plate 1 does not have a "pre-set warp," contrary to the applicants' claimed invention, as now claimed.

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In view of the above, the applicants respectfully submit that not all of the claimed elements or features are found in exactly the same situation and united in the same way to perform the identical function in the device taught in the British Patent Publication. As such, there can be no anticipation under 35 USC §102(b) of the applicants' claimed invention, as now set forth in independent claim 1.

Accordingly, the withdrawal of the outstanding anticipation rejection under 35 USC §102(b) based on the British Patent Publication No. 2,176,520 is in order, and is therefore respectfully solicited.

As to the remaining rejections, independent claim 5 already recites the existence of "a gap between said one face side and said bucket lip." Now also recited in independent claim 5, the claimed bucket tooth has a pre-set warp; and the claimed axial force fluctuation absorbing means provides resilient return force during the fluctuations in axial force by the forcible straightening of the pre-set warp of the tooth because the one face side is bolted in a state where the one face side is positioned on the bucket lip side.

The secondary reference of Rose is merely relied upon by the Examiner for teaching a device to "spot face an element on the side facing the surface to which it is to be bolted," as stated in lines

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4 - 6, item 7, page 4 of the outstanding Action. More importantly, such secondary reference of Rose does not supplement the above-discussed deficiencies or drawbacks in the teachings of the British Patent Publication in failing to fully meet the applicants' claimed invention.

Furthermore, with respect to the embodiments of the tooth 2 of the primary reference (the British Patent Publication), the back surface thereof facing the assembly plate 1 does not have a "pre-set warp," contrary to the applicants' claimed invention, as now claimed. Similarly, the secondary reference of Rose does not supplement such deficiency in the teaching of the British Patent Publication in failing to teach a pre-set warped bucket tooth, wherein the claimed axial force fluctuation absorbing means provides the resilient return force during the fluctuations in axial force by the forcible straightening of the pre-set warp of the tooth because one face side is bolted in a state where the one face side is positioned on the bucket lip side.

In view of the above, the applicants respectfully submit that a person of ordinary skill in the art would not have found the applicants' claimed invention obvious under 35 USC §103(a) based on the British Patent Publication, singly or in combination with the secondary reference of Rose.

Accordingly, the withdrawal of the outstanding obviousness rejections under 35 USC §103(a) based on the British Patent Publication, singly or in combination with Rose, is in order, and is therefore respectfully solicited.

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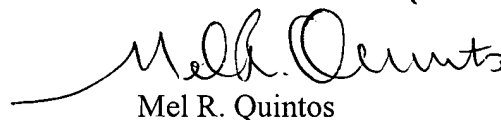
In view of the aforementioned amendments and accompanying remarks, claims, as amended, are in condition for allowance, which action, at an early date, is requested.

If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the applicants' undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, the applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

ARMSTRONG, KRATZ, QUINTOS,
HANSON & BROOKS, LLP



Mel R. Quintos
Attorney for Applicants
Reg. No. 31,898

MRQ/lrj/ipc
Atty. Docket No. 001337
Suite 1000
1725 K Street, N.W.
Washington, D.C. 20006
(202) 659-2930



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